

after a reasonable period of time subsequent to the expiration of the 9-month period if necessary for the investigation and processing of such request.

(3) *Specific property.* In general the specific property levied upon will be returned whenever possible. For this purpose, money that is specifically identifiable, as in the case of a coin collection which may be worth substantially more than its face value, is treated as specific property.

(4) *Purchase by United States.* For purposes of paragraph (a)(1)(iii) of this section, if property is declared purchased by the United States at a sale pursuant to section 6335(e), the United States is treated as having received an amount of money equal to the minimum price determined by the IRS before the sale or, if larger, the amount received by the United States from the resale of the property.

(b) [Reserved] For further guidance, See § 301.6343-2T(b) introductory text.

(1) The name and address of the person submitting the request;

(2) A detailed description of the property levied upon;

(3) A description of the claimant's basis for claiming an interest in the property levied upon; and

(4) The name and address of the taxpayer, the originating IRS office, and the date of the levy as shown on the notice of levy form, or levy form, or, in lieu thereof, a statement of the reasons why such information cannot be furnished.

(c) *Inadequate request.* A request for the return of property wrongfully levied upon will not be considered adequate unless it is a written request containing the information required by paragraph (b) of this section. However, unless a notification is mailed by the IRS to the claimant within 30 days of receipt of the request to inform the claimant of the inadequacies, any written request will be considered adequate. If the IRS timely notifies the claimant of the inadequacies of his request, the claimant has 30 days from the receipt of the notification of inadequacy to supply in writing any omitted information. Where the omitted information is so supplied within the 30-day period, the request will be considered to be adequate from the time the

original request was made for purposes of determining the applicable period of limitation upon suit under section 6532(c).

(d) *Payment of interest.* Interest is paid at the overpayment rate established under section 6621—

(1) In the case of money returned under paragraph (a)(1)(ii) of this section, from the date the IRS received the money to a date (to be determined by the IRS) preceding the date of return by not more than 30 days; or

(2) In the case of money returned under paragraph (a)(1)(iii) of this section, from the date of the sale of the property to a date (to be determined by the IRS) preceding the date of return by not more than 30 days.

(e) [Reserved] For further guidance, See § 301.6343-2T(e).

[T.D. 8587, 59 FR 37, Jan. 3, 1995, as amended by T.D. 9344, 72 FR 39739, July 20, 2007]

§ 301.6343-2T Return of wrongfully levied upon property.

(a) *Return of property—* (1) *General rule.* If the Internal Revenue Service (IRS) determines that property has been wrongfully levied upon, the IRS may return—

(a)(1)(i) through (a)(4) [Reserved] For further guidance, see § 301.6343-2(a)(1)(i) through (a)(4).

(b) *Request for return of property.* A written request for the return of property wrongfully levied upon must be given to the IRS official, office and address specified in IRS Publication 4528, “Making an Administrative Wrongful Levy Claim Under Internal Revenue Code (IRC) Section 6343(b),” or its successor publication. The relevant IRS publications may be downloaded from the IRS Internet site at <http://www.irs.gov>. Under this section, a request for the return of property wrongfully levied upon is not effective if it is given to an office other than the office listed in the relevant publication. The written request must contain the following information—

(b)(1) through (d)(2) [Reserved] For further guidance see § 301.6343-2(b)(1) through (d)(2).

(e) *Effective/applicability date.* This section applies to any request for return of wrongfully levied property that is filed after August 20, 2007.

[T.D. 9344, 72 FR 39739, July 20, 2007]

§ 301.6343-3 Return of property in certain cases.

(a) *In general.* If money has been levied upon and applied toward the taxpayer's liability, or property has been levied upon and sold, and the receipts have been applied toward the taxpayer's liability, or property has been levied upon and purchased by the United States and the United States still possesses the property, and the Commissioner determines that any of the conditions in paragraph (c) of this section exist, the Commissioner may return—

(1) An amount of money equal to the amount of money levied upon;

(2) An amount of money equal to the amount of money received by the United States from a sale of the property; or

(3) The specific property levied upon and purchased by the United States.

(b) *Return of levied upon property in possession of the Internal Revenue Service (IRS) pending sale under section 6335.* Other than as provided in § 301.6343-1(b) or in paragraph (d) of this section, the Commissioner, in his or her discretion, may return levied upon property that is in the possession of the United States pending sale under section 6335.

(c) *Conditions authorizing the return of property.* The Commissioner may return property upon determining that one of the following conditions exist:

(1) *Premature or not in accordance with administrative procedures.* The levy was premature or otherwise not in accordance with the administrative procedures of the Secretary.

(2) *Installment agreement.* Subsequent to the levy, the taxpayer enters into an agreement under section 6159 to satisfy the liability for which the levy was made by means of installment payments. If, however, the agreement specifically provides that already levied upon property will not be returned under section 6343(d), the Commissioner may not grant a request for return of property under this paragraph (c)(2).

(3) *Facilitate collection.* The return of property will facilitate the collection of the tax liability for which the levy was made.

(4) *Best interests of the United States and the taxpayer—(i) In general.* The taxpayer or the National Taxpayer Advocate (or his or her delegate) has consented to the return of property, and the return of property would be in the best interest of the taxpayer, as determined by the National Taxpayer Advocate (or his or her delegate), and in the best interest of the United States, as determined by the Commissioner.

(ii) *Best interest of the taxpayer.* The National Taxpayer Advocate (or his or her delegate) generally will determine whether the return of property is in the best interest of the taxpayer. If, however, a taxpayer requests the Commissioner to return property and has not specifically requested the National Taxpayer Advocate (or his or her delegate) to determine the taxpayer's best interest, a finding by the Commissioner that the return of property is in the best interest of the taxpayer will be sufficient to support the return of property. Only the National Taxpayer Advocate (or his or her delegate) may determine that a return of property is not in the best interest of the taxpayer.

(5) *Examples.* The following examples illustrate the provisions of this paragraph (c):

Example 1. A owes \$1,000 in Federal income taxes. The IRS levies on a broker with respect to a money market account belonging to the taxpayer and receives payment from the broker which it applies to the taxpayer's outstanding liability. However, the IRS failed to follow procedure provided by the Internal Revenue Manual (but not required by statute) with regard to managerial approval prior to the making of the levy. The Commissioner may return an amount of money equal to the amount of money the IRS levied upon and applied toward the taxpayer's tax liability.

Example 2. B owes \$1,000 in Federal income taxes. The IRS levies on a bank with respect to a savings account belonging to the taxpayer and receives funds from the bank, which it applies to the taxpayer's liability. Subsequent to the levy, B enters into an installment agreement, under which B will pay timely installments to satisfy the entire liability. The installment agreement does not by its terms preclude the return of levied